

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

Jerry Millwood,	:	
	:	Civil Action No.: 1:12-cv-00611
	:	
Plaintiff,	:	
v.	:	
	:	
Glass Mountain Capital, LLC,	:	COMPLAINT
Defendant.	:	JURY
	:	
	:	

For this Complaint, the Plaintiff, Jerry Millwood, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of the Defendant's repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of the Plaintiff's personal privacy by the Defendant and its agents in their illegal efforts to collect a consumer debt.
2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1337.
3. Venue is proper in this District pursuant to 28 U.S.C. § 1331(b), in that the Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

4. The Plaintiff, Jerry Millwood ("Plaintiff"), is an adult individual residing in Port Arthur, Texas, and is a "consumer" as the term is defined by 15 U.S.C. § 1692a(3).

5. Defendant Glass Mountain Capital, LLC (“GMC”), is a Illinois business entity with an address of 1930 Thoreau Drive #100, Schaumburg, Illinois 60173, operating as a collection agency, and is a “debt collector” as the term is defined by 15 U.S.C. § 1692a(6).

ALLEGATIONS APPLICABLE TO ALL COUNTS

A. The Debt

6. A person other than the Plaintiff allegedly incurred a financial obligation (the “Debt”) to an original creditor (the “Creditor”).

7. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a “debt” under 15 U.S.C. § 1692a(5).

8. The Debt was purchased, assigned or transferred to GMC for collection, or GMC was employed by the Creditor to collect the Debt.

9. The Defendant attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. § 1692a(2).

B. GMC Engages in Harassment and Abusive Tactics

10. Within the last year, Defendant contacted Plaintiff in an attempt to collect the Debt.

11. Plaintiff does not owe the Debt and was not a co-signer on the Debt.

12. Defendant placed numerous calls weekly to Plaintiff’s home telephone using an automated telephone dialer system with an artificial or prerecorded voice (hereafter “Robocalls”).

13. Additionally, Defendant placed Robocalls to Plaintiff as early as 6:45a.m.

14. Each of Defendant’s Robocalls stated it was looking for someone with the name of “Lancaster.”

15. On at least four occasions, Plaintiff called and informed Defendant that it was calling for the wrong person. Plaintiff repeatedly requested Defendant cease the calls.

16. Nonetheless, Defendant continued to hound Plaintiff with Robocalls in its attempt to collect the Debt.

17. On or around December 10, 2012, Plaintiff informed Defendant that he had retained legal representation and provided his attorney's contact information.

18. Defendant proceeded to place at least two additional calls to Plaintiff after being informed of attorney representation.

C. Plaintiff Suffered Actual Damages

19. The Plaintiff has suffered and continues to suffer actual damages as a result of the Defendant's unlawful conduct.

20. As a direct consequence of the Defendant's acts, practices and conduct, the Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment.

COUNT I

VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692, et seq.

21. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

22. The Defendant's conduct violated 15 U.S.C. § 1692c(a)(1) in that Defendant contacted the Plaintiff before 8:00 a.m. and after 9:00 p.m.

23. The Defendant's conduct violated 15 U.S.C. § 1692c(a)(2) in that Defendant contacted the Plaintiff after having knowledge that the Plaintiff was represented by an attorney.

24. The Defendant's conduct violated 15 U.S.C. § 1692d in that Defendant engaged in behavior the natural consequence of which was to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt.

25. The Defendant's conduct violated 15 U.S.C. § 1692d(5) in that Defendant caused a phone to ring repeatedly and engaged the Plaintiff in telephone conversations, with the intent to annoy and harass.

26. The Defendant's conduct violated 15 U.S.C. § 1692f in that Defendant used unfair and unconscionable means to collect a debt.

27. The foregoing acts and omissions of the Defendant constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

28. The Plaintiff is entitled to damages as a result of Defendant's violations.

COUNT II

VIOLATIONS OF THE TEXAS DEBT COLLECTION ACT
TEX. FIN. CODE ANN. § 392, et al.

29. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

30. The Plaintiff is a "consumer" as defined by Tex. Fin. Code Ann. § 392.001(1).

31. The Defendant is each a "debt collector" and a "third party debt collector" as defined by Tex. Fin. Code Ann. § 392.001(6) and (7).

32. The Defendants caused a telephone to ring repeatedly, with the intent to annoy or abuse the Plaintiff, in violation of Tex. Fin. Code Ann. § 392.302(4).

33. The Plaintiff is entitled to injunctive relief and actual damages pursuant to Tex. Fin. Code Ann. § 392.403(a)(1) and (2) and to remedies under Tex. Bus. & Comm. Code § 17.62 pursuant to Tex. Fin. Code Ann. § 392.404(a).

COUNT III

INVASION OF PRIVACY BY INTRUSION INTO PRIVATE AFFAIRS

34. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

35. The Restatement of Torts, Second, § 652(b) defines intrusion upon seclusion as, “One who intentionally intrudes...upon the solitude or seclusion of another, or his private affairs or concerns, is subject to liability to the other for invasion of privacy, if the intrusion would be highly offensive to a reasonable person.”

36. Texas further recognizes the Plaintiff’s right to be free from invasions of privacy, thus the Defendant violated Texas state law.

37. The Defendant intentionally intruded upon the Plaintiff’s right to privacy by continually harassing the Plaintiff with the above-referenced Robocalls.

38. The telephone calls made by the Defendant to the Plaintiff were so persistent and repeated with such frequency as to be considered, “hounding the plaintiff,” and, “a substantial burden to her existence,” thus satisfying the Restatement of Torts, Second, § 652(b) requirement for an invasion of privacy.

39. The conduct of the Defendant in engaging in the illegal collection activities resulted in multiple invasions of privacy in such a way as would be considered highly offensive to a reasonable person.

40. As a result of the intrusions and invasions, the Plaintiff is entitled to actual damages in an amount to be determined at trial from the Defendant.

41. All acts of the Defendant and its agents were committed with malice, intent, wantonness, and recklessness, and as such, the Defendant is subject to punitive damages.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendant:

1. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the Defendant;
2. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A) against the Defendant;
3. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against the Defendant;
4. Injunctive relief pursuant to Tex. Fin. Code Ann. § 392.403(a)(1);
5. Actual damages pursuant to Tex. Fin. Code Ann. § 392.403(a)(2);
6. Remedies under Tex. Bus. & Comm. Code § 17.62 pursuant to Tex. Fin. Code Ann. § 392.404(a);
7. Actual damages from the Defendant for all damages including emotional distress suffered as a result of the intentional, reckless, and/or negligent FDCPA violations and intentional, reckless, and/or negligent invasions of privacy in an amount to be determined at trial for the Plaintiff;
8. Punitive damages; and
9. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: December 31, 2012

Respectfully submitted,

By /s/ Jody B. Burton

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